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To: USPTO  
Mail Stop Petitions

Pages: 6  
(Incl. Cover)

Re: Serial No. 10/626,407

## Facsimile Transmittal

Monday, May 01, 2006

### Comments:

Please see attached:

- (1) Petition for Withdrawal of Holding of Abandonment (2 pages);
- (2) Copy of file jacket for docketing (1 page); and
- (3) Statement in support of petition (2 pages)

#### CERTIFICATE OF MAILING OR TRANSMISSION

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or being facsimile transmitted to the United States Patent and Trademark Office, on the date indicated below.

*Warner J. Delaune, Jr.*  
Warner J. Delaune, Jr.

May 1, 2006

#### TRANSMISSION PROBLEMS

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ADAMS AND REESE  
File Number

**8696-1**

BATON ROUGE • HOUSTON • JACKSON • MOBILE • BIRMINGHAM • NEW ORLEANS • WASHINGTON, D.C.

## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:  
Tarabichi, Samih

Filing Date: July 24, 2003

Serial No.: 10/626,407

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Examiner: Hoekstra, Jeffrey G.

Art Unit: 3736

Attorney File No.: 8696-1

For: Dynamic Spacer for Total Knee Arthroplasty

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

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PETITION TO WITHDRAW HOLDING OF ABANDONMENT –  
OFFICE ACTION NOT RECEIVED

Sir:

I hereby petition to withdraw the holding of abandonment in this case, on the basis that the Office Action forming the basis of the abandonment was not received.

I hereby state that: (a) the Office Action indicated, as mailed on October 25, 2005, was not received; and (b) a search of the file jacket and the docket records in my office indicates that this Office Action was not received.

I attach a copy of the docket record where the non-received Office Action would have been entered had it been received and docketed. As additional evidence of non-receipt of the Office Action, I also attach a Statement of Warner J. Delaune, Jr. (the undersigned), attesting to the unique facts, i.e. Hurricane Katrina, surrounding the time period when the Office Action was mailed.

In consideration of these submissions, it is respectfully requested that the holding of abandonment be withdrawn, and that the period for response to the Office Action be reset.

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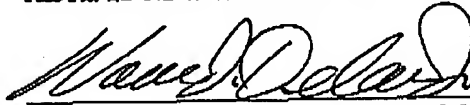
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The petition fee (37 C.F.R. § 1.17(f)) of \$400.00 is authorized to be deducted from Deposit Account No. 502413. Please charge any additional fees required by this paper or credit any overpayment in the manner authorized above. A duplicate of this paper is attached.

Respectfully submitted:

ADAMS AND REESE LLP



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INVENTOR <u>Samih Tarabichi</u>		CLIENT TITLE DIVISION OF CONTINUATION IN PART OF
SERIAL NO. <u>10/626,407</u>	FILED <u>July 24, 2003</u>	
TITLE <u>Dynamic Spacer for Total Knee Replacement</u>		
SIGNATURE _____		CANADIAN INVENTOR
SIGNMENT RECORDED _____ REEL _____ FRAME _____		
OFFICE ACTIONS	AMENDMENTS	INVENTOR
<u>Application filed</u>	<u>July 24, 2003</u>	
<u>Filing receipt</u>	<u>April 22, 2004</u>	

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## IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Applicant:  
Tarabichi, Samih

Filing Date: July 24, 2003

Serial No.: 10/626,407

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Examiner: Hoekstra, Jeffrey G.

Art Unit: 3736

Attorney File No.: 8696-1

For: Dynamic Spacer for Total Knee Arthroplasty

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Commissioner for Patents  
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Alexandria, VA 22313-1450RECEIVED  
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## STATEMENT BY WARNER J. DELAUNE, JR.

Sir:

This Statement accompanies the "Petition to Withdraw Holding of Abandonment - Office Action Not Received".

On August 29, 2005, Hurricane Katrina made landfall on the southern U.S., directly under the city of New Orleans, as a Category 4 hurricane. Katrina's winds were roughly 80-120 miles per hour at landfall, and it followed a path which caused widespread devastation to New Orleans and its surrounding communities. Due to the storm surge on the coast, waters overflowed the levee systems within New Orleans, causing extensive flooding of homes and businesses in the area. Virtually all of the persons who had evacuated the city prior to Katrina were unable to return to their homes and businesses. During this period of time, our New Orleans office of roughly 120 attorneys, and all of their staff workers, dispersed to other cities seeking shelter, food, and clothing. Once conditions improved in New Orleans, those persons were allowed to return to the firm's New Orleans office in mid-November 2005. During their absence, mail service to the affected areas was disrupted for several months, including through

the period of time during which the Office Action of October 25, 2005, was apparently mailed. Although mail delivery gradually improved, the firm has experienced a number of instances where mail has either been substantially delayed in delivery, or instances where mail has simply not been received at all.

Normally, when Office Actions are received, our firm's clerical staff stamp the Office Action with the date or receipt and direct the correspondence to the appropriate attorney. Once the Office Action is in the possession of the attorney, the deadlines for response are entered into our patent docketing system, as well as into my personal calendar as a backup. As part of my review of the status of various patent applications, I checked the online records for this patent application at the PTO's PAIR system on Friday, April 28, 2006, and learned that an Office Action had apparently been mailed on October 25, 2006. However, that Office Action has not been received, thus necessitating the filing of the accompanying petition.

Respectfully submitted:

ADAMS AND REESE LLP



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May 1, 2006